

1999 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2097

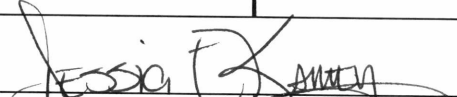
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2097

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 12, 1999

Tape Number	Side A	Side B	Meter #
1		x	
Committee Clerk Signature 			

Minutes:

SENATOR MUTCH called the meeting to order. One senator was absent.

SENATOR MUTCH opened the hearing on SB 2097.

DAVID CLINTON, ASSISTANT BANKING COMMISSIONER testified in support of SB 2097 (see testimony).

SENATOR KREBSBACH If I buy a car, I have the title and it is in my name. If I lease a vehicle, I don't have the title.

DAVID COOK Yes.

SENATOR KREBSBACH Who is the actual owner?

DAVID COOK What we are looking at is if it is an extension of credit.

SENATOR MUTCH How about an individual businessman that leases someone a car and finances it himself he wouldn't be affected by something like this?

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Senate Industry, Business and Labor Committee

Bill/Resolution Number Sb 2097

Hearing Date January 12, 1999

DAVID CLINTON We're not trying to regulate all of these transactions, only when they serve as an equivalent to an extension of credit and a form of financing.

SENATOR SAND Under this procedure, I could do this for inventory.

DAVID CLINTON Yes.

SENATOR SAND Is there anything to protect me from varied interest rates? Is there anything there to protect the consumer from being victimized?

DAVID CLINTON No, it doesn't. Regulator lenders are deemed exempt.

SENATOR MUTCH Section 3 is amended so that a money broker may not take any type of fee in advance. That would eliminate a finder's fee, right?

DAVID CLINTON It prohibits a broker from taking a fee in advance if they are not licensed and then by administrative rule we do allow certain instances to be paid in advance.

SENATOR MUTCH Is there any other discussion? We will close the hearing on SB 2097.

Committee discussion took place on January 20, 1999. SENATOR THOMPSON called for a do pass motion SB 2097. SENATOR KREBSBACH seconded the motion. The motion was successful. (7 yes, 0 no, and 0 absent)

2420923

Date: 1/20/99
Roll Call Vote #: 2097

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.**

Senate INDUSTRY, BUSINESS, & LABOR Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By THOMPSON Seconded By KREBSBACH

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment MATHERN

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 20, 1999 4:03 p.m.

Module No: SR-12-0923
Carrier: D. Mathern
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2097: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2097 was placed on the Eleventh order on the calendar.

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2097

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2097

House Industry, Business, and Labor Committee

Conference Committee

Hearing Date February 8, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-3.2
Committee Clerk Signature <i>Laura Ken</i>			

Minutes:

CHAIRMAN BERG OPENED THE HEARING ON SB 2097; A BILL RELATING TO MONEY BROKER LICENSES, REQUIREMENTS, AND FEES.

DAVID CLINTON, Assistant Banking Commissioner, introduced SB 2097. (See written testimony).

REP. ECKSTROM asked if fleet leasing is excluded from this.

DAVID said no, the company's inventory covers there.

CHAIRMAN BERG CLOSED THE HEARING ON SB 2097.

REP. KLEIN moved a DO PASS on SB 2097. REP. GLASSHEIM seconded the motion. The motion carried.

GENERAL DISCUSSION TOOK PLACE.

ROLL CALL - 14 YEA, 1 NAE, 0 ABSENT AND NOT VOTING.

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House Industry, Business, and Labor Committee

Resolution Number Sb 2097

Hearing Date February 8, 1999

FLOOR ASSIGNMENT - REP. ECKSTROM

Date: 2-8-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. S 2097

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Glassheim

Representatives	Yes	No	Representatives	Yes	No
Chairman Berg	/		Rep. Thorpe		/
Vice Chairman Kempenich	/				
Rep. Brekke	/				
Rep. Ekstrom	/				
Rep. Froseth	/				
Rep. Glassheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 14 No 1

Absent 0

Floor Assignment Ekstrom

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 24, 1999 2:46 p.m.

Module No: HR-33-3487
Carrier: Ekstrom
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2097: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends DO PASS (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2097 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2097

TESTIMONY FOR SENATE BILL NO. 2097

Senate Industry, Business, and Labor Committee

Testimony of David E. Clinton, Assistant Commissioner, Department of Banking and Financial Institutions

Senate Bill No. 2097 provides clarification as to what constitutes money brokering, making it clear that a person who engages in leasing as a form of financing fits within the definition of a money broker. Generally, a person who arranges a loan or provides a loan directly needs to be licensed as a money broker in order to engage in this type of activity unless exempted from this requirement. For example, banks, credit unions, savings and loan associations, insurance companies, and consumer finance companies are exempt from licensure.

The amended language in lines 8 and 9 make it clear that a money broker may engage in direct lending and thus serves to clarify the Department of Banking and Financial Institutions' long standing interpretation of Section 13-04.1-02 as providing such authority. Presently, the Department of Banking and Financial Institutions has 221 licensed money brokers ranging from all parts of the country. The need to provide greater clarity as to what constitutes money brokering is especially important given the broad number of people who will be reading and thus interpreting this statute.

Additionally, the amended language makes it clear that a person who provides consumer leases as a form of financing must also be licensed as a money broker to pursue this activity. Generally, a loan is merely an extension of credit. For example, one could arrange financing in order to allow a person to purchase a car or purchase the car directly and then arrange to have the car leased. Either way, the person receives an extension of credit and thus a loan as has been interpreted by the Department of Banking and Financial Institutions for many years.

The amendment to Section 13-04.1-02 under lines 19 through 21 makes it clear that a person who engages in a lease transaction that is not a form of financing, is not subject to be licensed as a money broker. The most common example of such a person would be retail sellers or manufacturers who provide lease financing for their own property and, of course, property leases are excluded.

Sections 2 and 3, as amended, direct that for record keeping and advance fee prohibitions continuity for the lease transactions.

Based on the above, the Department stands in support of Senate Bill No. 2097 and requests a favorable “Do Pass” from the Committee.